

ESTTA Tracking number: **ESTTA938836**

Filing date: **12/03/2018**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Societe des Produits Nestle S.A.
Granted to Date of previous extension	12/02/2018
Address	Case Postale 353 Vevey, 1800 SWITZERLAND
Domestic Representative	A. John P. Mancini Mayer Brown LLP P.O. Box 2828 Chicago, IL 60690-2828 UNITED STATES ipdocket@mayerbrown.com, jmancini@mayerbrown.com, acarroll@mayerbrown.com 2125062295

### Applicant Information

Application No	87753930	Publication date	06/05/2018
Opposition Filing Date	12/03/2018	Opposition Period Ends	12/02/2018
Applicant	Carla's Crazy Crunch, LLC 3425 S. 114th E Ave Tulsa, OK 74146 UNITED STATES		

### Goods/Services Affected by Opposition


Class 030. First Use: 2017/09/01 First Use In Commerce: 2017/09/28 All goods and services in the class are opposed, namely: Bakery goods and dessert items, namely, cakes, cookies, pastries, candies, and frozen confections for retail and wholesale distribution and consumption on or off the premises
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### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
Dilution by blurring	Trademark Act Sections 2 and 43(c)

### Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	630563	Application Date	06/09/1955
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Registration Date	07/10/1956	Foreign Priority Date	NONE
Word Mark	NESTLE'S CRUNCH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1937/11/00 First Use In Commerce: 1937/11/00 MILK CHOCOLATE		

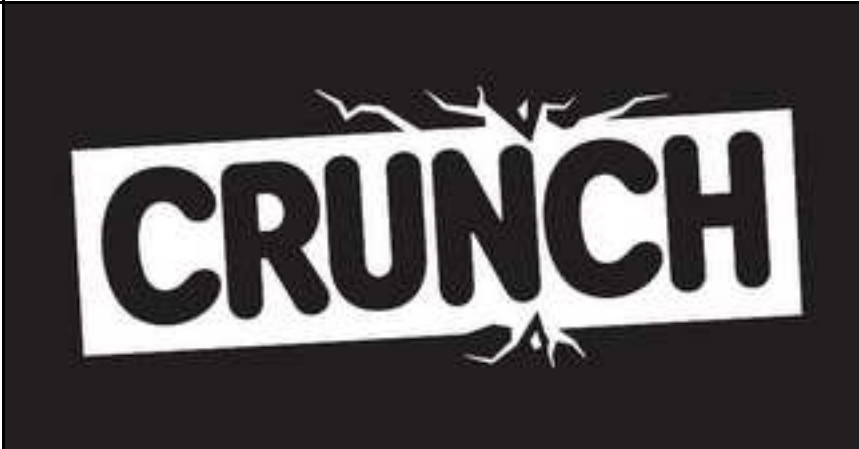
U.S. Registration No.	1110632	Application Date	08/31/1977
Registration Date	01/02/1979	Foreign Priority Date	NONE
Word Mark	NESTLE CRUNCH		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 030. First use: First Use: 1977/06/30 First Use In Commerce: 1977/06/30 CHOCOLATE COATED ICE CREAM BARS		

U.S. Registration No.	5193787	Application Date	07/21/2015
Registration Date	05/02/2017	Foreign Priority Date	NONE
Word Mark	CRUNCH		
Design Mark			

Description of Mark	The mark consists of the stylized wording "CRUNCH" in red contained in a white rectangle that is on a blue background. Between the letters "N" and "C" there are break designs exploding at the top and bottom of the white rectangle.
Goods/Services	Class 030. First use: First Use: 2003/03/30 First Use In Commerce: 2003/03/30 Chocolate; chocolate bars; chocolate candies; candies; ice cream; frozen confections

U.S. Registration No.	5193789	Application Date	07/24/2015
Registration Date	05/02/2017	Foreign Priority Date	NONE

Word Mark	CRUNCH
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Design Mark	
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Description of Mark	The mark consists of the stylized wording "CRUNCH" in a rectangle. Between the letters "N" and "C" there are break designs exploding at the top and bottom of the rectangle. The black that appears around the rectangle in the drawing represents background and is not claimed as a feature of the mark.
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Goods/Services	Class 030. First use: First Use: 2003/03/30 First Use In Commerce: 2003/03/30 Chocolate; chocolate bars; chocolate candies; candies; ice cream; frozen confections
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U.S. Registration No.	5358209	Application Date	12/22/2016
Registration Date	12/19/2017	Foreign Priority Date	NONE

Word Mark	CRUNCH
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 030. First use: First Use: 1937/11/01 First Use In Commerce: 1937/11/01
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	Chocolate, chocolate bars, chocolate candies		
U.S. Registration No.	5438357	Application Date	10/17/2017
Registration Date	04/03/2018	Foreign Priority Date	NONE
Word Mark	CRUNCH		
Design Mark			
Description of Mark	The mark consists of the stylized wording "CRUNCH" in red contained in a white rectangle that is on a blue background. Between the letters "N" and "C" there are break designs exploding at the top and bottom of the white rectangle.		
Goods/Services	Class 030. First use: First Use: 2017/03/01 First Use In Commerce: 2017/03/01 Morsels and baking pieces, namely, confectionery pieces for baking		

Attachments	71689235#TMSN.png( bytes ) 73139506#TMSN.png( bytes ) 86699723#TMSN.png( bytes ) 86703959#TMSN.png( bytes ) 87278581#TMSN.png( bytes ) 87648886#TMSN.png( bytes ) Notice of Opposition -- CARLAS CRAZY CRUNCH.pdf(32074 bytes )
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Signature	/ajohnpmancini/
Name	A. John P. Mancini
Date	12/03/2018

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Serial No. 87/753,930

Mark: CARLA’S CRAZY CRUNCH

Published: June 5, 2018

SOCIÉTÉ DES PRODUITS NESTLÉ S.A.	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. _____
	)	
CARLA’S CRAZY CRUNCH, LLC,	)	
	)	
Applicant.	)	
	)	

**NOTICE OF OPPOSITION**

Société des Produits Nestlé S.A. (“Nestlé” or “Opposer”), a société anonyme organized and existing under the laws of Switzerland, with an address of Case Postale 353, Vevey, 1800, Switzerland, believes that it will be damaged by the registration of the mark CARLA’S CRAZY CRUNCH (the “CARLA’S Mark”) that is the subject of trademark application Serial No. 87/753,930 (the “Application”), which was filed with the United States Patent and Trademark Office (“USPTO”) on January 12, 2018, by Applicant Carla's Crazy Crunch, LLC (the “Applicant”) in connection with “bakery goods and dessert items, namely, cakes, cookies, pastries, candies, and frozen confections for retail and wholesale distribution and consumption on or off the premises” in International Class 30 (the “Applicant’s Goods”) and hereby opposes the Application.






As grounds for the Opposition, it is alleged that:


1. Opposer and its affiliated companies collectively constitute one of the world's largest producers of food and beverages.

2. Opposer, Opposer's affiliated companies and Opposer's licensees have long-standing use of the marks CRUNCH and NESTLE (or NESTLE'S) CRUNCH (the "CRUNCH Marks") in connection with the marketing and sale of candy bars and related products.

3. As a result of the use, promotion and advertising of the CRUNCH Marks, these marks have become well-known to the trade and the general consuming public in the United States, and have accordingly acquired significant goodwill and fame. The CRUNCH Marks identify the source and origin of Opposer's goods and distinguish them to both the trade and the public from the goods of others.

4. Opposer owns numerous trademark registrations for the CRUNCH Marks, including but not limited to, the following marks registered in connection with relevant goods in Class 30:

Mark	Reg. No.	Goods
	630,563	Milk chocolate
	1,110,632	Chocolate coated ice cream bars
	5,193,787	Chocolate, chocolate bars, chocolate candies, candies, ice cream, frozen confections
	5,193,789	Chocolate, chocolate bars, chocolate candies, candies, ice cream, frozen confections
	5,358,209	Chocolate, chocolate bars, chocolate candies

Mark	Reg. No.	Goods
	5,438,357	Morsels and baking pieces, namely, confectionery pieces for baking

5. The foregoing registrations are valid and subsisting, two of which being incontestable, and all of the marks reflected therein have been used by Opposer in interstate commerce since a time prior to the filing date of the Application and prior to any use of the CARLA'S Mark by Applicant.

6. The federal registrations identified above provide, at the very least, constructive notice to Applicant of Opposer's rights in and to the CRUNCH Marks. Given Opposer's longstanding and widespread use of the famous CRUNCH Marks, it is likely that Applicant had knowledge of Opposer's senior rights at the time of filing of the Application.

7. Despite Opposer's prior use and registration of the CRUNCH Marks, Applicant filed the Application on January 12, 2018, to register the CARLA'S Mark in connection with Applicant's Goods, which goods are either identical or highly related to products covered by the registrations for the CRUNCH Marks.

8. The grant of a registration to Applicant for CARLA'S Mark should be denied on the grounds of Opposer's prior use and registration of the CRUNCH Marks in connection with the goods identified above, given the visual and phonetic similarities between the CRUNCH Marks and the CARLA'S Mark, as well as the direct overlap of Opposer's above-identified goods with Applicant's Goods.

9. In view of the foregoing, Applicant's Mark is confusingly similar to the CRUNCH Marks, and the use and registration of the CARLA'S Mark in connection with

Applicant's Goods is likely to cause confusion or mistake in the minds of the relevant purchasing public and to lead the public and prospective purchasers to erroneously assume, and thus be misled or deceived, to believe that Applicant's Goods are those of Opposer and/or are endorsed by, licensed by, sponsored by or otherwise affiliated or connected with Opposer, or that the CRUNCH Marks and/or Opposer's goods are associated with Applicant, all to the irreparable damage and injury of Opposer and the purchasing public.

10. The grant of a registration to Applicant for the Application should therefore be denied based on the likelihood that they will cause confusion, cause mistake or deceive under Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), with respect to the prior existing CRUNCH Marks that are used in connection with either identical or highly related products.

11. The CARLA'S Mark sought to be registered is further likely to cause dilution of the distinctive qualities of Opposer's famous CRUNCH Marks under Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c), which would cause irreparable damage and injury to Opposer and the purchasing public.

12. For the foregoing reasons, Opposer believes and alleges that it is being, and will continue to be, damaged by the registration of the Application. Accordingly, the Application should be refused registration.



**WHEREFORE**, Opposer files this Notice of Opposition and respectfully requests that the Application be denied, such that no registration be issued thereon to Applicant, and for any additional relief deemed just and proper by the Trademark Trial and Appeal Board.

Dated: December 3, 2018

/A. John P. Mancini/

A. John P. Mancini

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*Attorneys of Record for Opposer*

*Société des Produits Nestlé S.A.*